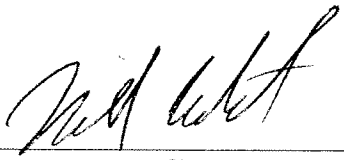
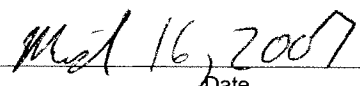


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PTO/SB/33 (07/05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		0310265aa	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR on _____ Signature _____ Typed or printed name _____	Application Number	Filed	
	09/726,075	11/29/00	
	First Named Inventor		
	Gansen		
	Art Unit	Examiner	
	1711	Cooney	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Michael E. Whitham	
<input checked="" type="checkbox"/> attorney or agent of record.		Typed or printed name	
Registration number 32,635		703-787-9400	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			

<input checked="" type="checkbox"/>	*Total of 1 forms are submitted.
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Gansen

Confirmation No. 9638

Serial No. 09/726,075

Group Art Unit: No. 1711

Filed November 29, 2000

Examiner John M. Cooney

For MOLDING MADE FROM POLYURETHANE AND PROCESS FOR ITS
PRODUCTION

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

ATTACHMENT TO PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This Pre-Appeal Brief Request for Review is being concurrently filed with a Notice of Appeal and a petition for a two month extension of time. The Commissioner is authorized to charge any fees are required to satisfy the fees due for the Notice of Appeal, for the petition for extension of time, and to gain entry and consideration of this Pre-Appeal Brief Request for Review to Attorneys Deposit Account 50-2041 (Whitham, Curtis, Christofferson & Cook).

The Invention

The invention is directed to a seat cushion, such as for example those used on office chairs (see page 3, at line 22). The seat cushion has a covering material which is leather, film, or textile in character. The covering material is the part of the chair that a person sitting in it contacts when he or she sits down. The covering material is impermeable to polyurethane gel. Under the covering material, there is a multilayered polyurethane molding. The molding includes (1) at least one polyurethane gel layer and (2) at least one polyurethane foam layer. The gel and foam layers are different from one another. The gel and foam layers are bonded together by a bond which is formed only from said polyurethane gel and said at least one polyurethane foam (see page 4, at lines 13-15). Their can be

more than one layer of gel or foam. The foam can be positioned on top of the gel. The gel could partially surround the foam, or the foam could partially surround the gel depending on the needs of the manufacturer (see page 4, at line 20).

The invention combines the spring characteristics of a foam with the damping characteristics of a gel, and represents a considerable advance in seat comfort (see page 2, at line 28). That is, the “seated” feeling in foam is combined with the pressure distributing properties of polyurethane gel (see page 6, at line 27 et seq.).

Errors and Omissions

The Examiner has erroneously concluded that claims 70-74 are anticipated by U.S. Patent 5,844,013 to Kenndoff.

First, it has been recognized by the Examiner that Kenndoff is not directed to a seat cushion. Rather, Kenndoff describes a wound dressing used to treat deep wounds suffered by human beings. Thus, on its face, Kenndoff does not anticipate the claimed invention.

Second, Kenndoff describes a hydrophilic polyurethane gel foam. Kenndoff does not describe an item which has both (1) a polyurethane gel layer, and (2) a polyurethane foam layer. Rather, Kenndoff contemplates a single layer, described as a hydrogel foam (see column 2, lines 31 et seq.) which is said to contain less absorber than prior wound dressings, to not require an anti-stick layer (anti-stick layers being required in prior wound dressings), and to be more flexible. As noted in Kenndoff at columns 2, line 38 to column 3, line 22, the Kenndoff device is a polyurethane gel foam is obtained from (1) polyurethane gel, (2) water absorbing material, and (3) a non-aqueous foaming agent.

The Examiner has suggested that Kenndoff’s teaching of using a polyurethane film as a backing (see column 4, at line 39), might be interpreted as satisfying the requirements of a gel layer and a foam layer. This is simply wrong. A film is not a gel or a foam. This can be well understood by Kenndoff’s use of the film as a backing material (i.e., the film does not dampen and distribute like a gel, and provides no spring like a foam). Furthermore, in the Kenndoff embodiment where there is a polyurethane film as a backing to a polyurethane gel foam, there is no covering material selected from leathers, films and textiles as is

required in the claimed invention.

Thus, Kenndoff cannot properly be deemed to anticipate the invention because it (1) does not teach a multilayer structure which includes both a polyurethane gel layer and a polyurethane foam layer, and (2) wholly lacks the covering material selected from leathers, films, and textiles.

Third, Kenndoff does not teach a multilayered polyurethane molding. Moldings are produced in a mold, and a molded foam or other molded product comprising a foam is quite different from a cast foam product. That is, there is a structural difference in the material itself. When a material is foamed in a closed mold, the weight is calculated so as to fill the whole mold completely and the formed product will have a skin different from the bulk of the foam (this was shown at the interview of May 18, 2006). As acknowledged in the office action, Kenndoff discloses the use of sheets. In particular, Kenndoff discloses at column 11, lines 1-5 that the product is a “sheet-like structure” (of gel foam) or “backing coated with hydrogel foam”. With Kenndoff, the foam is cast on the backing or coated on the backing with a knife. Cast sheets of foam do not have the same appearance or structural characteristics as moldings (e.g., lack of skin which forms at mold surface). Thus, Kenndoff cannot properly be deemed to anticipate the invention because it does not disclose a molding.

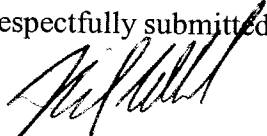
Conclusion

The claimed invention is not anticipated by Kenndoff because:

- 1) Kenndoff does not disclose a seat.
- 2) Kenndoff does not disclose a multilayered molding.
- 3) Kenndoff does not disclose two layers of different polyurethane materials, one layer of which is a gel and the other layer of which is a foam.
- 4) Kenndoff does not disclose a covering material selected from leathers, films, and textiles.

In view of the above, it is requested that the position of the Examiner be reviewed, that the rejections be withdrawn, and that the application be passed to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael E. Whitham", written over the typed name.

Michael E. Whitham

Reg. No. 32,635

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